

MONTANA LEGISLATIVE HISTORY

Chapter 492 19 87

Bill H 211 S _____ Original bill & history ✓ c

H. Committee on Fish + Game

Hearing Date(s) Jan 22 ✓ c

_____ c

_____ c

_____ c

Date Out Jan 22 ✓ c

S. Committee on Fish + Game

Hearing Date(s) Mar 12 ✓ c

Mar 26 ✓ c

_____ c

_____ c

Mar 27 ✓

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HOUSE FINAL STATUS

1/14	INTRODUCED		
1/14	REFERRED TO FISH & GAME		
1/22	HEARING		
1/29	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/31	2ND READING PASSED	94	0
2/02	3RD READING PASSED	96	2
	TRANSMITTED TO SENATE		
2/03	REFERRED TO FISH & GAME		
3/10	HEARING		
3/11	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	50	0
3/18	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE WITH AMENDMENTS		
3/25	2ND READING AMENDMENTS NOT CONCURRED	72	20
3/25	FREE CONFERENCE COMMITTEE APPOINTED		
4/03	FREE CONFERENCE COMMITTEE REPORT		
4/08	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	72	0
4/09	3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	96	1
	SENATE		
3/26	FREE CONFERENCE COMMITTEE APPOINTED		
4/03	FREE CONFERENCE COMMITTEE REPORT		
4/04	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	49	0
4/06	3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	46	2
4/14	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/15	TRANSMITTED TO GOVERNOR		
4/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 569	EFFECTIVE DATE: 10/01/87	

HB 211 INTRODUCED BY DEVLIN PROHIBIT HARASSMENT OF SPORTSMEN

1/14	INTRODUCED		
1/14	REFERRED TO FISH & GAME		
1/22	HEARING		
1/23	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/27	2ND READING PASSED	73	23
1/28	3RD READING PASSED	76	23
	TRANSMITTED TO SENATE		
1/29	REFERRED TO FISH & GAME		
3/12	HEARING		
3/27	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	49	1
3/30	3RD READING CONCURRED	48	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/07	2ND READING AMENDMENTS CONCURRED	82	0
4/08	3RD READING AMENDMENTS CONCURRED	88	3
4/10	SIGNED BY SPEAKER		
4/10	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 492	EFFECTIVE DATE: 10/01/87	

STATUS SHEET

50TH LEGISLATIVE SESSION

FISH AND GAME COMMITTEE

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
HB 16	1-8-87	1-8-87	TABLED 2	19-87							
HB 33	1-8-87	1-8-87	1-8-87	1-8-87							
HB 64	1-13-87	1-13-87				1-13-87					
HB 93	1-13-87	1-13-87	1-13-87	1-13-87							
HB 104	1-15-87	1-15-87	2-17-87		2-17-87						
HB 131	1-15-87	1-15-87	1-22-87	1-22-87							
HB 137	1-20-87	1-20-87	TABLED 2	19-87							
HB 183	1-20-87	1-20-87	1-27-87			1-27-87					
HB 210	1-22-87	1-22-87	1-27-87			1-27-87					
HB 211	1-22-87	1-22-87	1-22-87			1-22-87					
HB 247	1-27-87	1-27-87	TABLED 2	19-87							
HB 266	1-27-87	1-27-87	1-29-87			1-29-87					
HB 298	2-10-87	2-10-87	2-10-87			2-10-87					
HB 307	2-10-87	2-10-87	TABLED 2	10-87							

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

HOUSE BILL NO. 211
INTRODUCED BY DEVLIN

IN THE HOUSE

JANUARY 14, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

JANUARY 23, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 24, 1987 PRINTING REPORT.

JANUARY 27, 1987 SECOND READING, DO PASS.

JANUARY 28, 1987 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 76; NOES, 23.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 29, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

MARCH 27, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 28, 1987 SECOND READING, CONCURRED IN.

MARCH 30, 1987 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 2.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HB BILL NO. 211
2 INTRODUCED BY Decker

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT HARASSMENT
5 OF HUNTERS AND TRAPPERS."

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Definitions. As used in [this act], the
9 following definitions apply:

10 (1) "Taking" means the pursuit, hunting, trapping,
11 shooting, or killing of a wild animal on land upon which the
12 affected person has the right or privilege to pursue, hunt,
13 trap, shoot, or kill the wild animal.

14 (2) "Wild animal" means any game animal, fur-bearing
15 animal, or predatory animal, as defined in 87-2-101.

16 Section 2. Harassment prohibited. (1) No person may
17 intentionally interfere with the lawful taking of a wild
18 animal by another.

19 (2) No person may, with intent to prevent or hinder
20 its lawful taking, disturb a wild animal or engage in an
21 activity or place in its way any object or substance that
22 will tend to disturb or otherwise affect the behavior of a
23 wild animal.

24 (3) No person may disturb an individual engaged in the
25 lawful taking of a wild animal with intent to dissuade the

1 individual or otherwise prevent the taking of the animal or
2 to prevent the individual's enjoyment of the outdoors.

3 Section 3. Penalty. A person convicted of a violation
4 of [section 2] is guilty of a misdemeanor and is punishable
5 by a fine not to exceed \$500 or imprisonment not to exceed
6 30 days, or both.

7 Section 4. Injunction. A court of general jurisdiction
8 may enjoin conduct in violation of [section 2] upon petition
9 by a person affected or who reasonably may be affected by
10 such conduct and upon a showing that such conduct is
11 threatened or that it has occurred on a particular premises
12 in the past and that it is not unreasonable to expect that
13 under similar circumstances it will be repeated.

-End-

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

January 22, 1987

The meeting of the Fish and Game Committee was called to order by Chairman Orval Ellison on January 22, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present.

HOUSE BILL NO. 211: Rep. Jerry Devlin, District #25, sponsor, stated the bill prohibits the harassment of hunters and trappers. The most recent incidents, such as the buffalo hunt, is a good example of the need for HB 211. Other states have had problems with this and, in fact, HB 211 is patterned after either the Arizona or New Mexico law. HB 211 defines the taking as the pursuit, hunting and trapping or shooting and killing of wild game on land upon which the effected person (the hunter) has the right or privilege to pursue, hunt, trap or shoot a wild animal. No person may "intentionally" interfere with the lawful taking of the wild animals.

PROPOSERS: Dick Johnson, Deputy Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 1). He stated in recent years, groups and individuals have threatened to appear or have appeared in hunting areas during the fall with the expressed objective of disrupting sport hunting. Montana's experience to date, involved the first buffalo hunt conducted in 1985. One purpose of the demonstrators is attracting publicity to the anti-hunting cause. They did not dispute the right of all persons to be heard, but felt adequate public forums existed where the views can best be expressed. The proposed legislation was designed to prevent only actual interference with hunters and trappers or disturbance of game during legitimate pursuit. Their concern was for order and safety, which HB 211 serves to help ensure, when protesting citizens purposely interfere with lawful activities or other citizens, thus, a reasonable alternative to confrontation was available when necessary.

Robert Van Der Vere, a registered concerned citizen lobbyist, voiced support for HB 211.

Roland Cheek, representing the Montana Outfitters and Guides, stated MOGA supported HB 211.

Jeanne Klobnak, representing the Montana Wildlife Federation, submitted testimony (Exhibit 2). She stated in dealing with differences of hunters versus non-hunters, the importance of wildlife resource must be recognized and ultimately accept hunting as a proper and beneficial tool used to manage that resource. Individual groups who disagree with hunting philosophically do not usually represent such a compromise. In trying to force, by way of harassment, their beliefs onto others, such groups do not respect, and in fact, violate the rights of an individual citizen to make his or her own choice of what is right and wrong. MWF felt the department was recognizing the potential abeyance of respect for individual safety when such emotional differences meet face to face. MWF believes in the right of an individual to write or speak about their beliefs, however, MWF felt no one had a right to enforce, by way of harassment, or otherwise, those beliefs onto others.

Rep. Rapp-Svrcek had concerns about the wording "to prevent the individual's enjoyment of the outdoors", and felt this could mean just about anything.

Rep. Devlin stated possibly there could be an interpretation problem, however, it could be taken out, and would leave it up to the committee. He would have no objections.

Rep. Rapp-Svrcek asked Mr. Johnson about the wording.

Mr. Johnson assured him there would be some interpretation of this and felt the department would use common sense in enforcing this kind of language.

Rep. Rapp-Svrcek stated he had every confidence in the department personnel enforcing common sense, however, his concerns involved the potential confrontation of a hunter and someone else, or anyone in the outdoors who might use this as harassment.

Rep. Ellison explained, if taken in context, it clearly refers to individuals that are hunters or trappers, in the pursuit, when taken in context with the rest of the language.

Rep. Brandewie questioned why the civil liability was taken out.

Rep. Devlin stated in other states, the problem must have existed to necessitate, however, we did not feel HB 211 must go to this drastic of a step, due to the fact there hasn't been a problem in Montana yet, and felt it would be best to leave as simple as he could. However, this would constitute a misdemeanor and still would address to a certain extent.

Rep. Ream asked Mr. Johnson if there were other statutes that cover harassment of animals themselves.

Mr. Johnson stated there are statutes that prohibit the harassment of females and other related things.

Rep. Grady asked Rep. Devlin if he would have an objection to changing the language, and felt as written, it leaves it much to wide open.

Rep. Devlin stated the wording may not be needed at all, and he would have no objection.

Rep. Bulger thought perhaps legal counsel could instruct the committee on practical locations of the injunction provision, and does it offer a simple remedy.

Dave Cogley stated the injunction would merely prevent the interference with the hunter's activity. It does not give rise to any civil liability at all, and if there was a violation of a court order, enjoining that conduct, the person would be in contempt of court, which is a different matter.

Rep. Bulger wondered how that made it better since they already have the penalty, and wondered if it gave them another legal penalty.

Dave stated, if there was a threat of interference, as in the buffalo case, this would add that action could be taken before the confrontation occurred, which may prevent it from happening. Otherwise, if there is just a penalty, you are stuck with having a confrontation and then taking appropriate action.

Rep. Moore stated with regard to intent to disturb, how will this effect the relationship between the houndsmen and the trappers.

Rep. Devlin stated in this case, they both had permission to be out there, however, you still get back to the word "intentionally", and the hunter is not "intentionally" taking the cat away from the houndsmen or trapper by running across it accidentally.

Rep. Devlin closed stating one valid point that was brought up was ranchers may run across this circumstance in their normal schedule of work, which the Cattleman's Association had literature stating would specifically exempt the activities of the agricultural land user from this section (Exhibit 3).

Hearing on HB 211 closed.

HOUSE BILL NO. 210: Rep. Ed Grady, District #47, sponsor, stated HB 210 was a simple bill which dealt with some problems people have had with game damage violations and getting the department to come out soon enough to save a crop of alfalfa seed or a haystack. In some instances, the department did not come out for three or four days, sometimes longer, thus causing landowners to lose many expensive crops. All HB 210 did is shorten up the time they would have to come out and address the problem. The Fish and Game did have an amendment, changing HB 210, that presently may be too harsh stating the department had to study a situation and came up with some conclusion within 48 hours. This puts stress on the department because sometimes, they may consider a number of different alternatives before making a final decision.

PROPONENTS: Dick Johnson, Deputy Director, Department of Fish, Wildlife and Parks, distributed testimony (Exhibit 4). He stated Mr. Flynn could not be there, so Mr. Johnson presented his prepared statement for him. He stated each year the department receives a number of game damage complaints. With few exceptions, the 48 hour goal had been met. The few occasions it was not met were usually the result of having received several complaints at one time or a complication with the 40 hour limitation for Enforcement personnel. The recent court rulings which require overtime for enforcement hours in excess of 40 each week have hampered their abilities in a number of response areas, including game damage. Making the 48 hour requirement statutory would not change the circumstances under which they currently attempt to meet their goal. They suggest a change in the bill that would address the intent of HB 210 and those few instances where it would not be possible to "investigate and study" within 48 hours. Page 1, line 17, following the word "shall", insert the words "arrange to". Their guidelines would still apply and the complaints, in most instances, would still be responded to in 48 hours. However, it was literally impossible to assure that they could investigate and study, within 48 hours, each complaint every year.

Robert Van Der Vere, concerned citizen lobbyist, felt he was part of the reason the bill was drafted after receiving several complaints from landowners stating the department people never even made a trip out to investigate. HB #210 was simply doing some housekeeping on the law, and he stated there are a sufficient amount of people in the department to get the job done.

Rep. Ray Brandewie stated he would like to go on record as supporting HB 210. However, he felt the 48-hour time frame

Mr. Flynn stated they were referring to those headed under the term "management purposes". For the resident it would be the A-3 and A-4, and for the nonresident, B-7 and B-8.

Rep. Ream stated there may have been some confusion and still was, regarding the phrase "for game management purposes", and wondered if it was used elsewhere in the statutes.

Dave Cogley, Researcher, stated he was not aware that the term was used elsewhere.

The re-opened hearing on HB 183 was closed.

Rep. Grady then asked Chairman Ellison if he would permit Mr. Flynn to make comments on HB 210 and HB 211 that were heard previously when Mr. Flynn was unable to be present. Chairman Ellison had no objections to that.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 210: Director Flynn stated they did support HB 210 and had no problem with the contact within 48 hours, as stated in prior testimony. The department did make, for the majority of the time, response to the call in that period of time. However, if the law was read, it states they shall study and investigate within 48 hours. That was not possible 100% of the time, prompting the suggested amendment.

QUESTION (OR DISCUSSION) ON HOUSE BILL NO. 211: Mr. Flynn stated the type of legislation was becoming more and more prevalent throughout the western states. As referenced in testimony, they did have the situation before them, when the buffalo hunt was enacted. He stated the department went through all the law enforcement steps necessary to prevent any problems and felt with a bill like HB 211, those kind of things could possibly be avoided. There was no immediate pressing need for it, but it was something they had already had a brush with and could happen any time. The bison are extremely popular and the hunt is extremely unpopular in the eastern part of the country, and could have the same set of circumstances surface again.

EXECUTIVE SESSION

HOUSE BILL NO. 131: Rep. Giacometto moved HB 131 DO PASS. Question was called. The motion CARRIED, with Reps. Grady and DeMars voting no.

HOUSE BILL NO. 211: Rep. Giacometto moved HB 211 DO PASS. Rep. Rapp-Svrcek moved to amend HB 211. See Standing Committee Report No. 1.

Rep. Brandewie spoke against the proposed amendment stating there are instances when people are pursuing a lawful recreation in the wilds, and could be harassed in those areas where it was lawful for them to do.

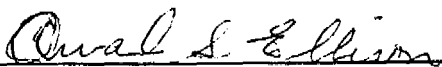
Rep. Giacometto spoke in favor of the amendment and stated if you put up a billboard along side of the road, you could actually be preventing the individual's enjoyment of the outdoors. That individual could be a hunter driving down the road, and because the view was being obstructed, that could be part of his enjoyment of the outdoors.

Rep. Ream tried to clarify that what was being referred to was not "any" individual, but "the" individual and to make it even clearer, you could state "that" individual.

Question was called on the amendment. A roll call vote was taken. The motion CARRIED, 12-6.

Rep. Giacometto moved HB 211 DO PASS AS AMENDED. Question was called. A roll call vote was taken. The motion CARRIED 16-2.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 2:35.


ORVAL ELLISON, CHAIRMAN

DAILY ROLL CALL

FISH & GAME

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date JANUARY 22, 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY	X		
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE	X		
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

ROLL CALL VOTE

HOUSE COMMITTEE FISH & GAME

DATE JANUARY 22, 1987

BILL NO. HB 211

TIME 2:20 p.m.

NAME	EXCUSED	AYE	NAY
ORVAL ELLISON, CHAIRMAN			X
MARION HANSON, V. CHAIRMAN		X	
RAY BRANDEWIE			X
TOM BULGER		X	
JOHN COBB		X	
FRITZ DAILY		X	
GENE DEMARS		X	
JERRY DRISCOLL			X
LEO GIACOMETTO		X	
ED GRADY		X	
LOREN JENKINS		X	
VERNON KELLER		X	
JANET MOORE		X	
BOB PAVLOVICH		X	
MARY LOU PETERSON			X
JOHN PHILLIPS			X
PAUL RAPP-SVRCEK		X	
BOB REAM			X

TALLY

12 6

Lisa Rapp
Secretary

Orval S. Ellison
Chairman

MOTION: Rep. Rapp-Svrcek moved to amend HB 211. Question

being called, a roll call vote was taken. The motion carried

12-6.

ROLL CALL VOTE

HOUSE COMMITTEE FISH & GAME

DATE JANUARY 22, 1987

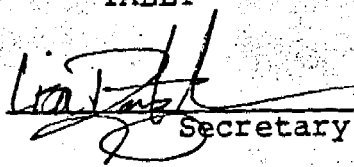
BILL NO. HB 211

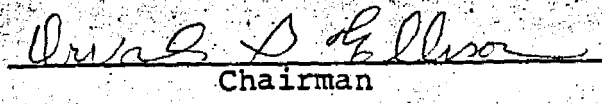
TIME 2:30 p.m.

NAME	EXCUSED	AYE	NAY
ORVAL ELLISON, CHAIRMAN		X	
MARION HANSON, V. CHAIRMAN		X	
RAY BRANDEWIE		X	
TOM BULGER		X	
JOHN COBB			X
FRITZ DAILY		X	
GENE DEMARS			X
JERRY DRISCOLL		X	
LEO GIACOMETTO		X	
ED GRADY		X	
LOREN JENKINS		X	
VERNON KELLER		X	
JANET MOORE		X	
BOB PAVLOVICH		X	
MARY LOU PETERSON		X	
JOHN PHILLIPS		X	
PAUL RAPP-SVRCEK		X	
BOB REAM		X	

TALLY

16 2


Secretary


Chairman

MOTION: Rep. Giacometto moved HB 211 DO PASS AS AMENDED.

Question being called, a roll call vote was taken. The
motion carried 16-2.

EXHIBIT (1)
DATE 1-22-87
HB 211 (Devlin)

HB 211
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

In recent years, groups and individuals have threatened to appear or have appeared in hunting areas during the fall with the expressed objective of disrupting sport hunting. While these efforts have achieved questionable success, they have generated hostile feelings and confrontations between sportsmen and preservationists. Incidents of this kind have been increasing nationwide and could produce a serious confrontation at some point in time. These situations pose a threat to the safety of all concerned, including the professionals employed by fish and wildlife management agencies.

Montana's experience to date involved the first buffalo hunt we conducted in 1985. Members of an activist preservation group threatened to intervene on behalf of the bison and stop the killing of buffalo. The threat was not carried out, but the hunt proceeded with a contingent of wardens called in to keep the peace in case of incident. We went to some effort to brief our people on crowd control, as well as to have the local sheriff and county attorney involved to prepare for contingencies.

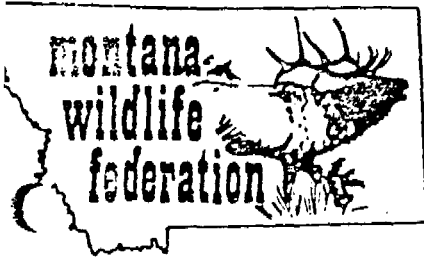
One clear purpose of these demonstrators is attracting publicity to the anti-hunting, anti-trapping cause. We do not dispute the right of all persons to be heard, but we feel adequate public forums exist where these views can be expressed.

As an example, we would point to the extensive public hearing process of the Fish and Game Commission during the season setting process conducted each year.

The proposed legislation is designed to prevent only actual interference with hunters and trappers or disturbance of game during legitimate pursuit. Should these incidents become more prevalent in Montana - and occurrences in other states suggest they will - the law can be used to preserve the peace before a serious incident occurs.

Our concern is for order and safety, and this bill serves to help ensure that when protesting citizens purposely interfere with the lawful activities of other citizens, a reasonable alternative to confrontation is available.

We urge your favorable consideration of HB 211.



Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

Testimony on HB 211

House Fish & Game Committee

January 22, 1987

P.O. Box 3526
Bozeman, MT 59715
(406) 587-1713

Mr. Chairman, honorable members, my name is Jeanne Klobnak. I stand before you today on behalf of the Montana Wildlife Federation in their support of HB 211.

The Montana Wildlife Federation (MWF), comprised of 4600 members is a conservation organization dedicated to promoting wildlife, wildlife habitat and sportsmen's interests.

The make-up of membership in organizations like that of MWF is often an interesting study in contrast. Some members are non-hunters, concerned about promoting a conservation ethic in the interest of wildlife preservation and expansion. Others are hunters interested in this as well as increasing circumstances which aid in enhancing hunter opportunity. Philosophical differences amongst MWF's board of directors result in policy decisions which, above all else, recognize the importance of the wildlife resource, and ultimately accept hunting as a proper and beneficial tool used to manage that resource.

Individual groups who disagree with hunting philosophically do not usually represent such a compromise. In trying to force, by way of harassment, their beliefs onto others such groups do not respect, and in fact violate, the rights of an individual citizen to make his or her own choice as to what is right and wrong.

The Department of Fish, Wildlife, and Parks recognizes the potential abeyance of respect for individual safety when such emotional philosophical differences meet face to face.

MWF firmly believes in the right of an individual to write or speak about his or her beliefs. MWF however does not believe that one has a right to enforce, by way of harassment or otherwise, those beliefs onto others.

The intent and context of HB 211 is sound and positive. MWF urges that this committee vote do pass on HB 211. Thankyou.



MONTANA CATTLEMEN'S ASSOCIATION INTL

WITH A LARGE "Steak" IN MONTANA'S FUTURE

P.O. Box 1234
Helena, Montana 59624

TESTIMONY CONCERNING HB 211
House Fish and Game Committee

EXHIBIT (3)
DATE 1-22-87
HB 211 Devlin -

Mr. Chairman, we appreciate that the intent of this bill is to prevent deliberate and malicious harrassment of law-abiding hunters. We do not oppose that philosophy.

Nevertheless, we are concerned that a landowner, rancher, farmer, or even someone who grazes public land might, in the ordinary course of his work, be construed as intentionally disturbing stalked game. We insist that there should be a subsection added to Sec. 2 which specifically exempts the activities of an agricultural land user from being defined as harrassment.

This would not be a major change and it would eliminate the possibility of a land user being wrongfully prosecuted for harrassment. Some will say the language is already adequate in this respect. It isn't. It would be awfully hard for a rancher or other land user to prove that he did not disturb the game with intent to harrass. The fact is that agricultural activities often have the potential to disturb a hunter's stalk. Just driving out to repair a fence could ruin a hunter's day. We do not want frustrated sportsmen filing complaints against ranchers for starting up a tractor out in the hills.

UNTIL language to protect those using the land for agricultural purposes is added, the Montana Cattlemen's Association must OPPOSE HB 211, in spite of the good purpose Representative Devlin obviously intends.

Thank you for this opportunity to comment.

VISITORS' REGISTER

FISH AND GAME

COMMITTEE

BILL NO. HB 210; HB 211

DATE JANUARY 22, 1987

SPONSOR GRADY; DEVLIN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

JANUARY 22

19 37

Mr. Speaker: We, the committee on FISH AND GAME
report HB 211

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. ORVAL ELLISON

Chairman

"AN ACT TO PROHIBIT HARASSMENT OF HUNTERS AND TRAPPERS"

1. Page 2, line 1.

Following: "animal"

Strike: "or ^{to prevent} prevent the individual's enjoyment of the out doors"

FIRST

reading copy (WHITE)
color

1 HOUSE BILL NO. 211

2 INTRODUCED BY DEVLIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT HARASSMENT
5 OF HUNTERS AND TRAPPERS."
6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Definitions. As used in [this act], the
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11 shooting, or killing of a wild animal on land upon which the
12 affected person has the right or privilege to pursue, hunt,
13 trap, shoot, or kill the wild animal.14 (2) "Wild animal" means any game animal, fur-bearing
15 animal, or predatory animal, as defined in 87-2-101.16 Section 2. Harassment prohibited. (1) No person may
17 intentionally interfere with the lawful taking of a wild
18 animal by another.19 (2) No person may, with intent to prevent or hinder
20 its lawful taking, disturb a wild animal or engage in an
21 activity or place in its way any object or substance that
22 will tend to disturb or otherwise affect the behavior of a
23 wild animal.24 (3) No person may disturb an individual engaged in the
25 lawful taking of a wild animal with intent to dissuade the1 individual or otherwise prevent the taking of the animal or
2 ~~to prevent the individual's enjoyment of the outdoors.~~3 Section 3. Penalty. A person convicted of a violation
4 of [section 2] is guilty of a misdemeanor and is punishable
5 by a fine not to exceed \$500 or imprisonment not to exceed
6 30 days, or both.7 Section 4. Injunction. A court of general jurisdiction
8 may enjoin conduct in violation of [section 2] upon petition
9 by a person affected or who reasonably may be affected by
10 such conduct and upon a showing that such conduct is
11 threatened or that it has occurred on a particular premises
12 in the past and that it is not unreasonable to expect that
13 under similar circumstances it will be repeated.

-End-

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 12, 1987

The meeting of the Senate Fish and Game Committee was called to order at 1:00 P.M. on March 12, 1987 by Chairman Ed Smith in Room 402 of the State Capitol.

ROLL CALLS: All members were present, with the exception of Senator Bengtson, who was excused.

CONSIDERATION OF HB 211: Representative Gerry Devlin, House District No. 25, sponsor of the bill, stated that the bill is an act to prohibit the harrassment of hunters or trappers, while they have the right to hunt, trap, pursue, shoot or kill wild animals. No person may intentionally, with intent, harrass the hunter or the penalty is a misdemeanor, or a court injunction if the harrassment continues. The bill was introduced because of the bison hunt threats were made in Yellowstone Park by certain groups of persons to disrupt the hunt. Although the bill was patterned after similar legislation in other states, the penalties are less severe and do not cover punitive damages, payment of guide fees, or payment of the complete trip. The penalty proposed is a misdemeanor.

PROPOSERS: Ron Marcoux, Fish, Wildlife and Parks Department, presented the committee with written testimony. (Exhibit 1)

Jeanne Klobnak, Montana Wildlife Federation, stands in support of HB 211.

OPPOSERS:

There were no opposers to HB 211.

QUESTIONS FROM THE COMMITTEE:

Senator Jergeson asked what would happen if someone was doing mischief on was asked to leave the private property. The person asked to leave could make accusations concerning harassment. The legislation deals with land other than private property. The person who is hunting would have the effective right to pursue the game.

Senator Smith stated the purpose of the bill is to address situations like people gathering to make noise with pots and pans in order to make noise to drive away the animals that are being hunted. A similar situation happened in Idaho. The airplane pilot was fined \$10,000 for disturbing a rabbit hunt and the pilot's license was revoked for five years.

SENATE FISH AND GAME

March 12, 1987

Page 3

Senator Yellowtail questioned the bill. More problems could be created. A group or organization could assert the "right to be present on public property", "right to carry on as they wish on public property within the bounds of the law", or the "right to express themselves freely on public property." The bill may create a constitutional argument. Devlin replied that the intent would have to be considered. The determination would have to be made by the judge in the event harassment charges were filed.

Senator Yellowtail established a like scenario: A permit for natural forest ground had been obtained to run cows, but the leasee observes hunters shooting game near the herd of cattle. Would the cattleman-landowner be subject to a misdemeanor charge if the landowner interfered with the hunting. Marcoux replied that the law reads "it is the right or privilege to pursue." On private land, particularly, the hunters must have permission from the land owner. This would be a case of trespassing, and the hunter would be in violation of the trespassing laws.

Representative Devlin stated that he would welcome an amendment to address livestock that is ran on federal land.

Senator Severson asked Mr. Marcoux if many complaints have been received by the Department concerning situations like the one described above, or have the complaints been concerning the bison hunts only. Mr. Marcoux replied that the bison hunts have been the main concern of the Department.

Senator Bishop asked if there is a certain area where cattle are still allowed on public land during hunting season, and asked if there is an uniform deadline to remove cattle from public land. Senator Severson stated in his area there are no requirements that the cattle be taken off the land at an specific time. Severson's area is like a checkerboard of federal and private land. BLM land has no requirements. The management program with the federal government is on going.

Senator Anderson stated that the livestock are off the Forest Land by a certain date, which is before hunting season. This is not true of BLM land. Senator Anderson pointed out that recreation on public land also interferes with livestock.

Representative Devlin reported that there have been threats made concerning certain groups of people who would intend to interfere with hunting situations such as bison hunts. Therefore, Montana should have a written law that deals with such a situation.

Senator Smith closed the hearing on HB 211.

SENATE FISH AND GAME

March 12, 1987

Page 5

Senator Jacobson asked if there are plans to require applicants to obtain special permits to obtain a valid big game license for game other than elk. Representative Rapp-Svrcek said that it applied only to elk, no future plans are forthcoming in legislation.

Senator Yellowtail asked why the language was changed from requiring the sportmen have a regular license before being allowed to apply for a special permit to read now that the commission may require. What are the circumstances that the commission would or would not choose to require the special permit. Marcoux replied that the situation would provide an opportunity to have a special drawing.

Senator Smith asked how many opportunities are there for special elk permits. Marcoux replied that there are approximately 80,000 people applying for approximately 20,000 elk permits. The department would anticipate that there would be less elk hunters applying for elk permits according to the fiscal note. The people would have to put money up front to buy elk licenses, which would decrease multiple family application. Currently there is no up-front money and this is reflected in the fiscal note.

Senator Smith said that the actual money would be different from the proposed fiscal note if the applicants had to buy the license first. Marcoux agreed. The department does not anticipate overall decrease.

Senator Severson asked if the legislation would be clarified if the language read "shall require" a license for a special hunt. Marcoux replied that the word "may" in the language provides the commission flexibility. Rapp-Svrcek said the language in regards to the valid license is if there is no sufficient applicants for the special. Then, the application will come from a pool of hunters that currently have the licenses. This is unrelated to the authority of the commission to require a regular permit.

DISPOSITION OF HOUSE BILL 298:

Senator Severson made a motion to recommend to the committee a BE CONCURRED IN. The motion carried unanimously. Senator Al Bishop will carry the bill on the floor of the Senate.

DISPOSITION OF HOUSE BILL 211:

Senator Greg Jergeson suggested that language be created to address the leesees's right to make normal business decisions.

SENATE FISH AND GAME

March 12, 1987

Page 6

Some provision must be made concerning animal husbandry in regards to public land. Congressman Marlenee introduced legislation in this area that may be incorporated into the bill. Smith said the legislation should be worded in such a manner that livestock or agricultural production does not interfere with the normal operations of the lessee or the landowner and can not be considered as a means of harassment.

ADJOURNMENT: There being no further business before the Senate Fish and Game Committee, the meeting was adjourned at 2:20 P.M.



SENATOR ED SMITH, Chairman

HB 211
March 12, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

In recent years, groups and individuals have threatened to appear or have appeared in hunting areas during the fall with the expressed objective of disrupting sport hunting. While these efforts have achieved questionable success, they have generated hostile feelings and confrontations between sportsmen and preservationists. Incidents of this kind have been increasing nationwide and could produce a serious confrontation at some point in time. These situations pose a threat to the safety of all concerned, including the professionals employed by fish and wildlife management agencies.

Montana's experience to date involved the first buffalo hunt we conducted in 1985. Members of an activist preservation group threatened to intervene on behalf of the bison and stop the killing of buffalo. The threat was not carried out, but the hunt proceeded with a contingent of wardens called in to keep the peace in case of incident. We went to some effort to brief our people on crowd control, as well as to have the local sheriff and county attorney involved to prepare for contingencies.

One clear purpose of these demonstrators is attracting publicity to the anti-hunting, anti-trapping cause. We do not dispute the right of all persons to be heard, but we feel adequate public forums exist where these views can be expressed.

As an example, we would point to the extensive public hearing process of the Fish and Game Commission during the season setting process conducted each year.

The proposed legislation is designed to prevent only actual interference with hunters and trappers or disturbance of game during legitimate pursuit. Should these incidents become more prevalent in Montana - and occurrences in other states suggest they will - the law can be used to preserve the peace before a serious incident occurs.

Our concern is for order and safety, and this bill serves to help ensure that when protesting citizens purposely interfere with the lawful activities of other citizens, a reasonable alternative to confrontation is available.

We urge your favorable consideration of HB 211.

Amendments to HB 211

3rd Reading copy

1. Page 2.

Following: line 2

Insert: "(4) Nothing in this section prohibits a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment."

DATE _____

COMMITTEE ON Senate Fish & Game

NAME _____

BILL #

Support

	Support	Oppose
1. The proposed rule will increase the cost of health care for patients.		
2. The proposed rule will reduce the quality of patient care.		
3. The proposed rule will increase the risk of patient safety.		
4. The proposed rule will reduce the efficiency of the health care system.		
5. The proposed rule will increase the burden on health care providers.		
6. The proposed rule will reduce the ability of health care providers to deliver care.		
7. The proposed rule will increase the risk of malpractice litigation.		
8. The proposed rule will reduce the ability of health care providers to attract and retain staff.		
9. The proposed rule will increase the risk of patient dissatisfaction.		
10. The proposed rule will reduce the ability of health care providers to deliver care in a timely manner.		

Donat Ellis

MT Audubon

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298

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Lura Stermitz

LMMA

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Ron Marcoux

FWR

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Scott Ross

Muslama Berdikunteng Assa

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Jeune Klobucke

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MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 26, 1987

The meeting of the Senate Fish and Game Committee was called to order at 12:30 P.M. on March 26, 1987 by Chairman Ed Smith in Room 325 of the Capitol Building.

ROLL CALL: All member of the committee were present at roll call.

CONSIDERATION OF HOUSE BILL 530: Representative Orval Ellison House District No. 81, sponsor of the bill, stated that the bill is an act to permit the sale of progeny raptors held for breeding purposes. The proposed bill would put Montana law in "sync" with the federal law. The raptor breeding projects are expensive and are monitored closely by the Fish, Wildlife and Parks Department.

PROPOSERS:

John Tubbs, Bozeman, MT, representing the Montana Falconers' Association, stated support of House Bill 530. Mr. Tubbs stated that the bill would bring Montana's regulations into "sync" with federal regulations on the sale and captive breeding of falcons. The federal propagation regulations were designed to encourage, captive production of raptors for conservation, recreation, scientific and breeding purposes. The legislation would increase genetic diversity in captive populations and would alleviate human pressures to wild populations of the raptors. Twenty states have adopted the proposed legislation. North Dakota is in the process of adopting said legislation at the present time. Montana would be the last state in the Northwest accepting the federal regulations. The International Association of Fish and Wildlife Agencies supports the drafted legislation. Mr. Tubbs stated the number of peregrine falcons held for breeding purposed has tripled, the number of young produced has doubled, and the number of peregrines donated for conservation has almost doubled. Commercialism would be difficult because the seamless band required for all captive birds of prey cannot be removed. The band is attached at an early age. The rules for recording when an egg is laid until it is hatched restricts the taking of birds from the wild and placed in captive breeding projects. Raptors and parts of the raptors are currently owned and controled by the federal government due to the mandate of the Manditory Bird Treaty. The project cannot be considered a privatization of wildlife. The federal government owns and controls the adult birds, the young, the eggs and the offspring whether the birds are sold or not sold. Mr. Tubbs compared the

SENATE FISH AND GAME

March 26, 1987

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DISPOSITION OF HOUSE BILL 211: Senator Smith stated the bill by Representative Devlin is an act to prohibit harrassment of hunters and trappers. There are problems in the Eastern United States. Harassment could occur in Montana. Senator Jergeson moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 322: Senator Severson moved the committee recommend a BE CONCURRED IN on HB 322. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 406: Senator Jergeson offered an amendment to sunset the Board of Outfitters. The sunset year would be 1991. Senator Bengtson stated that the date will be reviewed over the four year period. The motion passed unanimously.

Senator Jacobson made a motion to remove the five year experience clause. Senator Bengtson asked why five years experience is necessary. Smoke Elser stated the person serving on the Board should understand the workings of the outfitting industry. Jacobson stated that the five years experience clause is very unusual provision. The governor uses discretion in making appointments. The motion passed. Senator Anderson voted nay.

Senator Bishop made a motion to ask the committee to recommend a BE NOT CONCURRED IN. Senator Jacobson stated resistance to the motion. Senator Bengtson stated the outfitters have not had full consensus within the organization, but desire a high degree of professionalism. Senator Severson approved the four year sunset clause. Senator Smith stated that the Guides and Outfitters are mistaken in their concept that the board will resolve problems. The Board of Outfitters will be separate from the Fish, Wildlife, and Parks Department. Input and coordination will be lost between Outfitter and the Department in the quest to resolve problems and handle duties.

Senator Bengtson asked if any board had ever been dissolved. Senator Jacobson reported that the Board of Massage Therapy was the only board dissolved.

The motion by Senator Bishop to recommend a BE NOT CONCURRED IN failed. Senator Bishop voted yes.

Senator Bengtson made a motion that the committee recommend a BE CONCURRED IN. The motion passed with Senators Smith and Bishop voted no.

DISPOSITION OF HOUSE BILL 465: Senator Smith stated that the bill is an act to allow golden eagles to be captured for the

SENATE

STANDING COMMITTEE REPORT

March 27, 1987

19.....

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration..... House Bill No. 211

Third reading copy (Blue)
color

PROHIBIT HARASSMENT OF SPORTSMEN

Representative Gerry Devlin (Senator Jergeson)

Respectfully report as follows: That..... House Bill No. 211

be amended as follows:

1. Page 2.

Following: line 2

Insert: "(4) Nothing in this section prohibits a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment."

AND AS AMENDED
BE CONCURRED IN

XXXXXX
XXXXXX

XXXXXXXXXX

Ed Smith

Senator Ed Smith

Chairman

3-27-87
18
5:1

HOUSE BILL NO. 211

INTRODUCED BY DEVLIN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT HARASSMENT
OF HUNTERS AND TRAPPERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the
following definitions apply:

(1) "Taking" means the pursuit, hunting, trapping,
shooting, or killing of a wild animal on land upon which the
affected person has the right or privilege to pursue, hunt,
trap, shoot, or kill the wild animal.

(2) "Wild animal" means any game animal, fur-bearing
animal, or predatory animal, as defined in 87-2-101.

Section 2. Harassment prohibited. (1) No person may
intentionally interfere with the lawful taking of a wild
animal by another.

(2) No person may, with intent to prevent or hinder
its lawful taking, disturb a wild animal or engage in an
activity or place in its way any object or substance that
will tend to disturb or otherwise affect the behavior of a
wild animal.

(3) No person may disturb an individual engaged in the
lawful taking of a wild animal with intent to dissuade the

individual or otherwise prevent the taking of the animal or
~~to prevent the individual's enjoyment of the outdoors.~~

(4) NOTHING IN THIS SECTION PROHIBITS A LANDOWNER OR
LESSEE FROM TAKING REASONABLE MEASURES TO PREVENT IMMINENT
DANGER TO DOMESTIC LIVESTOCK AND EQUIPMENT.

Section 3. Penalty. A person convicted of a violation
of [section 2] is guilty of a misdemeanor and is punishable
by a fine not to exceed \$500 or imprisonment not to exceed
30 days, or both.

Section 4. Injunction. A court of general jurisdiction
may enjoin conduct in violation of [section 2] upon petition
by a person affected or who reasonably may be affected by
such conduct and upon a showing that such conduct is
threatened or that it has occurred on a particular premises
in the past and that it is not unreasonable to expect that
under similar circumstances it will be repeated.

-End-